

# HEARING NOTICE AND HEARING PROCEDURE

FOR THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD'S CONSIDERATION  
OF A RECOMMENDATION BY A PANEL OF THE BOARD THAT THE BOARD ISSUE  
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2017-XXXX

SINGH FARMS, LLC  
MADERA COUNTY

The Central Valley Water Board (Board) has the authority to impose civil liability against persons who commit various water quality violations. On 4 November 2016, a panel of the Board (Hearing Panel) conducted a hearing to consider an Administrative Civil Liability (ACL) Complaint issued by the Board's Prosecution Team. After receiving evidence and testimony, the Hearing Panel adopted a recommendation that the Board issue an ACL Order at a subsequent meeting. The ACL Order would impose civil liability against Singh Farms, LLC for the violations charged in the ACL Complaint. The Board has scheduled a hearing to consider the Hearing Panel's recommendation on the following date:

**23/24 February 2017**

Central Valley Water Board Offices  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, California

At the 23/24 February 2017 hearing, based on its independent review of the administrative record, the Board may assess the proposed civil liability as recommended by the Hearing Panel, assess a higher or lower amount, decline to assess any liability, or continue the hearing to a later date.

**At the hearing conducted by the Hearing Panel, all parties affected by the proposed Order were given the opportunity to present evidence and testimony to the Hearing Panel. The Central Valley Water Board will not allow additional evidence to be submitted on this matter except in accordance with Section III, below.**

The Board's Meeting Agenda will be posted at least ten days before the meeting on the Board's website, at the following address:

[http://www.waterboards.ca.gov/centralvalley/board\\_info/meetings](http://www.waterboards.ca.gov/centralvalley/board_info/meetings)

To ensure a fair hearing, the Board staff and attorneys that have issued the ACL Complaint (the "Prosecution Team") have been separated from the Board staff and attorneys that will provide legal and technical advice to the Board (the "Advisory Team"). Members of the Board's Prosecution Team have not communicated with the members of the Central Valley Water Board or the Board's Advisory Team regarding any substantive matter at issue in the proceeding.

## **I. Hearing Participants**

Hearing participants are considered either "Designated Parties" or "Interested Persons."

Designated Parties are the primary participants in the hearing. Designated Parties have had the opportunity to submit evidence, offer witnesses, and cross-examine adverse witnesses.

Interested Persons are those persons that have an interest in the outcome of the hearing, but who are not the primary participants in the hearing. Interested persons typically include members of the public, elected officials, and advocacy groups. Interested persons may not generally present evidence (photographs, eyewitness testimony, etc.).

The following participants have been designated as Designated Parties in this proceeding:

1. Central Valley Water Board's Prosecution Team
2. Singh Farms, LLC

At the 23/24 February 2017 hearing, both Designated Parties and Interested Persons may be asked to respond to questions from the Board, staff, or others, at the discretion of the Board Chair.

## **II. Documents in Evidence and Availability of Board Files**

The Board's Prosecution Team maintains a file containing the ACL Complaint, the documents submitted to the Hearing Panel, and all other related documents at the Board's office at Rancho Cordova. The file is available to the public and may be inspected or copied during regular business hours. Scheduling an appointment to review the file by contacting the Prosecution Team in advance is not required, but calling ahead will help ensure timely access to these documents. Most relevant documents will also be posted online at:

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/index.shtml](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml)

Although the website is updated regularly, to ensure access to the latest materials, you may contact the Prosecution Team for assistance in obtaining copies.

## **III. Statements and Time Limits**

The Prosecution Team and all other Designated Parties (including the Discharger) have already been given the opportunity to submit evidence and legal and technical arguments to the Hearing Panel. In its deliberations, the Board will consider all evidence, arguments, and testimony presented or submitted to the Hearing Panel. **The Board will not be accepting any new evidence unless the party submitting the evidence provides compelling justification that a serious miscarriage of justice may occur if the new evidence is not admitted into the administrative record. Requests to admit additional evidence must be submitted as soon as possible to the Board's Advisory Team.** If the Board's Advisory Team admits new evidence, this Hearing Procedure may be revised to accommodate the Board's consideration of the new evidence.

Though the Board will not be accepting new evidence, Board will allow Designated Parties and Interested Persons to make brief policy statements to the Board at the 23/24 February 2017 Hearing. These policy statements may not be used to introduce new evidence. The following time limits will apply to the policy statement presentations:

1. Board Prosecution Team: **3 minutes**
2. Singh Farms, LLC: **3 minutes**
3. All Interested Persons: **3 minutes**

If a Designated Party or Interested Person will not be available to attend the 23/24 February 2016 hearing, the Designated Party or Interested Person may submit its proposed statement in writing to the Board in advance of the hearing. Written statements shall be limited to three (3) single-sided pages. The Board encourages the Designated Parties and Interested Persons to submit any written statements as early as possible, but no later than the deadline listed on the "Important Deadlines" page.

## **IV. Miscellaneous Matters**

**Prohibition on Surprise Evidence:** In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence.

Summary Sheet: The Advisory Team will prepare a summary agenda sheet (Summary Sheet). The Summary Sheet will be posted on the Board's website in advance of the hearing.

Prohibition on Ex Parte Contacts: Any communication regarding the ACL Complaint that is directed at the Board members or the Advisory Team by a participant in the hearing and that is not made in a manner open to all other persons is considered an "ex parte" contact. In order to maintain the impartiality of the Board, all ex parte contacts are prohibited. Communications regarding non-controversial procedural matters are not considered ex parte contacts and are not restricted.

Applicable Regulations: The regulations governing adjudicatory hearings before the Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available online at: <http://www.waterboards.ca.gov>. Copies of these regulations will be provided upon request. Any procedures not provided by this Hearing Procedure are not applicable to this hearing. Except as provided in Section 648(b) and herein, Chapter 5 of the California Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

## **V. Questions**

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information on the following page).

**CONTACT INFORMATION: PRIMARY CONTACTS**

<b>BOARD ADVISORY TEAM*</b>	
Adam Laputz, Assistant Executive Officer 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4726 <a href="mailto:Adam.Laputz@waterboards.ca.gov">Adam.Laputz@waterboards.ca.gov</a>	Andrew Deeringer, Attorney State Water Board, Office of Chief Counsel P.O. Box 100 Sacramento, CA 95812 Phone: (916) 322-3575 <a href="mailto:Andrew.Deeringer@waterboards.ca.gov">Andrew.Deeringer@waterboards.ca.gov</a>
<b>BOARD PROSECUTION TEAM**</b>	
Brett Stevens, Senior Environmental Scientist 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4642 <a href="mailto:Brett.Stevens@waterboards.ca.gov">Brett.Stevens@waterboards.ca.gov</a>	Kailyn Ellison, Attorney State Water Board, Office of Enforcement 801 K Street, 23 <sup>rd</sup> Floor Sacramento, CA 95814 Phone: (916) 445-9557 <a href="mailto:Kailyn.Ellison@waterboards.ca.gov">Kailyn.Ellison@waterboards.ca.gov</a>
<b>DISCHARGER</b>	
Robin Singh Singh Farms, LLC 25810 Avenue 11 Madera, CA 93637 <a href="mailto:Robin.sof@hotmail.com">Robin.sof@hotmail.com</a>	Kevin F. Kelley Berliner Cohen LLP 2844 Park Ave. Merced, CA 95348 Phone: (209) 385-0700 <a href="mailto:Kevin.Kelley@berliner.com">Kevin.Kelley@berliner.com</a>

\* The Board's Advisory Team also includes: Pamela Creedon, Executive Officer

\*\* The Board's Prosecution Team also includes: Andrew Altevogt, Assistant Executive Officer, Sue McConnell, Supervising Water Resources Control Engineer, Terry Bechtel, Environmental Scientist, Wesley Ouimette, Engineering Geologist, and Keri Yee, Associate Government Program Analyst

**IMPORTANT DEADLINES**

All submissions must be received by 5:00 p.m. on the respective due date. Documents may be submitted electronically, if they are sent to all of the email addresses listed in the “Primary Contacts” table on the previous page.

Where *only* hard copies are being submitted, hard copies must be received by the date listed below. When hard copies are being submitted *in addition to* electronic copies, hard copies must be mailed by the date listed below.

Any submitted documents may be placed online. Please provide both unredacted and redacted versions of any documents that contain personal information that you do not want posted online.

8 August 2016	Prosecution Team issued ACL Complaint and Hearing Panel Hearing Procedure, which are available online at: <a href="http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml">http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml</a>
4 November 2016	Hearing Panel conducted the hearing.
15 December 2016	Prosecution Team sends this Hearing Notice and Hearing Procedure to Designated Parties and Interested Persons and posts the Hearing Panel Report and proposed ACL Order to the Board’s website.
26 January 2017	All Designated Parties and Interested Persons may submit brief statements to the Board in accordance with Section III of this Hearing Procedure.
23/24 February 2017	Board Hearing to consider the Hearing Panel’s recommendation that the Board issue the proposed ACL Order